

INTRODUCTION OF THE WORKER
ECONOMIC OPPORTUNITY ACT**HON. CASS BALLENGER**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 2000

Mr. BALLENGER. Mr. Speaker, today I am pleased to join Senator McCONNELL and others in the introduction of "The Worker Economic Opportunity Act," a bipartisan bill to protect stock option programs for rank-and-file employees. In a February 12, 1999, opinion letter that has only recently become widely publicized, the Department of Labor determined that under the 1938 Fair Labor Standards Act, at least in some case, the profits from the exercise of stock options are part of an employee's "regular rate" of pay, and therefore must be taken into account in determining the employee's overtime rate of pay.

While the opinion letter constitutes the agency's interpretation of the law based on the facts and circumstances of one particular case, the practical effect of the letter is to "red flag" other similar programs and cause widespread confusion about overtime liability among employers who provide stock options for their hourly or "nonexempt" employees.

Stock option programs can be configured in a variety of ways and are referred to by different names, but all of the programs share similar objectives: to reward employees, provide ownership in the company, and to attract and retain a motivated work force. In testimony before the Subcommittee on Workforce Protections' hearing earlier this month, witnesses discussed how stock ownership programs are now available to more and more employees. In the past, such programs were used to reward executives, top management, and other key employees. However, there has been a dramatic increase in the past several years in the number of companies offering broad-based employee ownership plans to rank and file employees.

A 1998 study by Hewitt & Associates found that over 66 percent of the companies surveyed gave options to some portion of their nonexecutive workforce. The National Center for Employee Ownership estimates that more than 6 million nonexecutives receive stock options. In the high-technology industry, some 55 percent of rank-and-file employees participate in employee ownership programs.

I daresay that few employees who receive stock options from their employer consider the profit on those options to be part of their regular rate of pay for overtime purposes. Yet the Department of Labor's interpretation of the law that says stock options may be part of the employee's "regular rate," threatens to undermine the ability and the willingness of employers to make stock options available to their "nonexempt" employees. Ms. Abigail Rosa, an employee who testified at the hearing, expressed concern that DOL's interpretation of the law would force companies to do away with stock option programs for employees who are covered by overtime.

The Worker Economic Opportunity Act would amend the Fair Labor Standards Act (FLSA) to ensure that federal law does not end up discouraging the use of such programs or denying employee the opportunity to participate in the success of their company. The bill specifies that any value or income derived

from a stock option, stock appreciation right or employee stock purchase plan would be exempt from an employee's regular rate of pay for the purposes of calculating overtime. Plans must meet the following requirements: a minimum 6-month vesting period between the grant of the option and its exercise by the employee; any discounts on stock option or stock appreciation rights may not exceed 15 percent of fair market value at the time of the grant; the voluntary exercise of any grant or right by the employee; and disclosure of the terms of the plan to employees.

Employers may grant options based on employees' past performance, provided that the options are not pursuant to any prior contract. In addition, employers may grant options based on the future performance of any size facility, or a business unit or group consisting of at least 10 employees.

Under the bill, employers who are currently operating plans would be protected from liability for overtime back pay if: the grants or rights were obtained prior to the bill's effective date; the grants or rights were issued to employees within a year after the bill's effective date under plans that must be modified through shareholder approval; or the plans are part of a collective bargaining agreement as of the bill's effective date. Finally, the provisions of the bill would go into effect 90 days after the date of enactment, giving employers time to complete pending grants.

Mr. Speaker, this bill represents the hard work and attention of many Senators and Members of the House on both sides of the aisle, as well as the Department of Labor. I urge my colleagues to support the legislation.

CORRESPONDENCE FROM BOB
JONES UNIVERSITY**HON. JOSEPH CROWLEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 2000

Mr. CROWLEY. Mr. Speaker, today I am somewhat bewildered by correspondence I received yesterday from Bob Jones University. As you are aware, I am the sponsor of H. Con. Res. 261, which condemns the racial and religious intolerance at Bob Jones University. Additionally, on Friday, three of my colleagues, Representatives PETER KING, RICHARD NEAL, and SAM GEJDENSON, and I sent a letter to Bob Jones III expressing our concerns about the participation of Ian Paisley in a Bible Conference at the University. Reverend Paisley is an opponent of the peace process in Northern Ireland and an outspoken anti-Catholic bigot. Since coming to Congress, I have been a vocal supporter of the Irish Peace process and the Good Friday peace process. Additionally, I have always promoted religious tolerance. In fact, I am an active participant in Project Children, a program designed to eradicate the hatred between Catholics and Protestants in Northern Ireland by working with children.

Yesterday I received a response from Bob Jones III to my letter. I was bewildered by his venomous response. At this time, I would like to ask unanimous consent to submit to the RECORD a copy of my original letter to Bob Jones III, as well as his response.

I am disappointed that the leader of an institution of higher learning could not respectfully

respond to concerns of four Americans who happen to be Members of Congress. His labeling of the extreme religious views of Rev. Paisley as, and I quote, "leftist, radical IRA/Sinn Fein loving imaginations," is totally offensive to the Catholic minority in Northern Ireland.

I was horrified at being called a bigot and intolerant by Bob Jones the III. I have spent my life espousing peace and tolerance for Ireland and for all religious differences. I work actively with many religious groups, including Protestants, Jews, and Muslims.

Additionally, I recently marched in a St. Patrick's Day parade in Queens that was the first inclusive St. Patrick's Day parade in New York City. I believe Mr. Jones' letter reflects that he is the bigot and validates the concerns of myself and many of my colleagues.

Mr. Jones believes that I do not have the right to make demands of him. He is correct, we do have free speech. However, I believe that as an American, who happens to be a Member of Congress, I have a duty to request that the University does not invite someone whom I consider a proponent of hate to participate in any religious conference. Our country is founded on free speech, but it is also founded on religious freedom and tolerance. No institution, especially one of higher learning, should promote religious intolerance.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 27, 2000.

Mr. BOB JONES III,
President, Bob Jones University, Greenville, SC.

DEAR PRESIDENT JONES: Reports have come to our attention that over the weekend the Reverend Ian Paisley participated once again in a Bible conference at your university. We are writing to ask that you sever all professional contacts with Reverend Paisley immediately, including terminating his membership on your Board of Trustees. No American University should have a relationship with such an anti-Catholic bigot and opponent of peace in Northern Ireland.

Reverend Paisley has called the Catholic Church an instrument of the devil and "the mother of all harlots." He has described the Pope as the "Antichrist" and the "Great Fornicator." "Popery is contrary to Christ's gospel," Paisley said in one sermon. A recent biographer chronicled his lifetime commitment of "total resistance to every attempt to accept that [Catholic] system as a Christian church."

As leader of Northern Ireland's Democratic Unionist Party, Paisley has done his utmost to stir up sectarian violence between Protestants and Catholics. After serving time in prison for inciting to riot, he helped form the Ulster Protestant Volunteers paramilitary group. He has led contentious marches through Catholic neighborhoods, which are lightning rods for sectarian tension. Paisley's response to the Irish Republican Army's (IRA) statement on disarmament in 1994 was to denounce it as "a clever Jesuit expression."

In typical fashion, Paisley boycotted the peace talks led by Senator George Mitchell which produced the historic Good Friday Accord in 1998. Thankfully, his last minute attempts to sabotage the agreement failed. The comfort your university provides him jeopardizes the fragile peace in Northern Ireland that has stopped a conflict which claimed the lives of over 3,000.

Press reports indicate that Paisley has made more than 50 trips over the past 30 years to speak at your University. He should make no more.